IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 11230 of 2000

For Approval and Signature:

HONOURABLE MR.JUSTICE R.S.GARG

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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CHIEF OFFICER, - Petitioner(s)
Versus
MAHERAJHUSEN LALUMIYA MALEK & 2 - Respondent(s)

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Appearance :
MR RN SHAH for Petitioner(s) : 1,
NONE for Respondent(s) : 1 - 2.
MS MANISHA LAVKUMAR AGP for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE R.S.GARG

Date : 09/07/2007

ORAL JUDGMENT

1. Mr.R.N. Shah, learned counsel for the petitioner. None for the respondent Nos.1 and 2. Ms.Manisha Lavkumar, learned Assistant Government Pleader for the respondent the No.3.

2. Dahegam Municipality, being aggrieved by the Award dtd.25/6/1997 passed by the Presiding Officer, Labour Court, Ahmedabad in Reference (LCA) Nos.2024 and 2083 of 1993, is before this Court with a submission that the court below was unjustified in proceeding ex-parte against the petitioner Municipality and was also unjustified in making the award in favour of the respondent workman.

3. So far as the question of service of notice upon the petitioner is concerned, the petitioner, for the reasons best known to them, but for making a statement that no notices were issued to them, have not tried to file copy of the proceedings recorded by the Labour Court, copies of the Summons issued by the Labour Court and service report submitted by the process server to the Labour Court. If such documents were filed before this Court, the court, in such circumstances, at least make an inquiry that in fact, the lower court was justified or not in proceeding ex-parte. So far as the question of sufficiency of of cause is concerned, I do not think that this Court would be entitled to look into the sufficiency of the cause for absence, because, that would have been in the domain of the first court, if an application for setting

aside ex-parte order / award was made before that Court.

4. So far as the merits of the matter are concerned, learned Labour Court has found and as a fact that the respondent had worked for more than 240 days in 12 calender months preceding the date of retrenchment / illegal removal. If such were unimpeachable facts and there was no controversy against the truth of the fact, the court below cannot be condemned with an allegation that it faulted in making the award.
5. I found no reason to interfere. The petition deserves to and is accordingly dismissed. Rule is discharged. Interim relief, if any, is vacated. No costs.

(R.S. GARG, J.)

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